

Public Law 102-356
102d Congress

An Act

To authorize appropriations for public broadcasting, and for other purposes.

Aug. 26, 1992

[H.R. 2977]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Tele-
communications
Act of 1992.

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Telecommunications Act of 1992".

47 USC 609 note.

PUBLIC TELECOMMUNICATIONS FACILITIES AUTHORIZATION

SEC. 2. Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended by striking the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated \$42,000,000 for each of the fiscal years 1992, 1993, and 1994, to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunications facilities as provided in this subpart."

SERVICES FOR UNDERSERVED AUDIENCES

SEC. 3. Section 393(b)(4) of the Communications Act of 1934 (47 U.S.C. 393(b)(4)) is amended by inserting immediately before the period at the end the following: ", including services to underserved audiences such as deaf and hearing impaired individuals and blind and visually impaired individuals".

CONGRESSIONAL DECLARATIONS OF POLICY

SEC. 4. Section 396(a) of the Communications Act of 1934 (47 U.S.C. 396(a)) is amended—

- (1) by striking "and" at the end of paragraph (7);
- (2) by redesignating paragraph (8) as paragraph (10); and
- (3) by inserting immediately after paragraph (7) the following new paragraphs:

"(8) public television and radio stations and public telecommunications services constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through community programs and outreach programs;

"(9) it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies; and".

BOARD OF DIRECTORS

SEC. 5. (a) REDUCTION IN NUMBER OF MEMBERS.—(1) Section 396(c)(1) of the Communications Act of 1934 (47 U.S.C. 396(c)(1)) is amended—

(A) by striking "10" and inserting in lieu thereof "9"; and
 (B) by striking "6" and inserting in lieu thereof "5".

(2) Section 396(c)(2) of the Communications Act of 1934 (47 U.S.C. 396(c)(2)) is amended by striking "10" and inserting in lieu thereof "9".

(b) **TERM OF OFFICE.**—Section 396(c)(5) of the Communications Act of 1934 (47 U.S.C. 396(c)(5)) is amended to read as follows:

"(5) The term of office of each member of the Board appointed by the President shall be 6 years, except as provided in section 5(c) of the Public Telecommunications Act of 1992. Any member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member of the Board shall be eligible to serve in excess of 2 consecutive full terms."

47 USC 396 note.

(c) **TRANSITION RULES.**—(1) With respect to the three offices whose terms are prescribed by law to expire on March 26, 1992, the term for each such office immediately after that date shall expire on January 31, 1998.

(2) With respect to the two offices whose terms are prescribed by law to expire on March 1, 1994, the term for each of such offices immediately after that date shall expire on January 31, 2000.

(3) With respect to the five offices whose terms are prescribed by law to expire on March 26, 1996—

(A) one such office, as selected by the President, shall be abolished on January 31, 1996;

(B) the term immediately after March 26, 1996, for another such office, as designated by the President, shall expire on January 31, 2000; and

(C) the term for each of the remaining three such offices immediately after March 26, 1996, shall expire on January 31, 2002.

(4) As used in this subsection, the term "office" means an office as a member of the Board of Directors of the Corporation for Public Broadcasting.

COMPENSATION OF OFFICERS

SEC. 6. Section 396(e)(1) of the Communications Act of 1934 (47 U.S.C. 396(e)(1)) is amended by striking the fourth sentence and inserting in lieu the following: "No officer of the Corporation, other than the Chairman or a Vice Chairman, may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the Board and subject to the provisions of the Corporation's Statement of Ethical Conduct."

CONTENTS OF ANNUAL REPORT

SEC. 7. Section 396(i)(1) of the Communications Act of 1934 (47 U.S.C. 396(i)(1)) is amended—

- (1) by striking “and” at the end of subparagraph (B);
 - (2) by redesignating subparagraph (C) as subparagraph (D);
- and
- (3) by inserting immediately after subparagraph (B) the following new subparagraph:

“(C) a listing of each organization that receives a grant from the Corporation to produce programming, the name of the producer of any programming produced under each such grant, the title or description of any program so produced, and the amount of each such grant;”.

CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATION

SEC. 8. (a) EXTENSION OF AUTHORIZATION.—Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

- (1) by striking “180,000,000 for fiscal year 1981,” and all that follows through “\$245,000,000 for fiscal year 1991;”;

- (2) by striking “and” after “fiscal year 1992;”;

- (3) by inserting immediately after “fiscal year 1993” the following: “, \$310,000,000 for fiscal year 1994, \$375,000,000 for fiscal year 1995, and \$425,000,000 for fiscal year 1996”.

(b) ANNUAL REPORT.—Section 396(k)(1) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)) is amended by adding at the end the following new subparagraph:

“(E) In recognition of the importance of educational programs and services, and the expansion of public radio services, to unserved and underserved audiences, the Corporation, after consultation with the system of public telecommunications entities, shall prepare and submit to the Congress an annual report for each of the fiscal years 1994, 1995, and 1996 on the Corporation’s activities and expenditures relating to those programs and services.”.

TRAINING AND PROFESSIONAL DEVELOPMENT

SEC. 9. Section 396(k)(3)(A)(i)(II) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(i)(II)) is amended by inserting immediately after “other than English” the following: “or for assistance in the provision of affordable training programs for employees at public broadcast stations”.

INDEPENDENT PRODUCTION SERVICE

SEC. 10. Section 396(k)(3)(B)(iii)(V) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)(iii)(V)) is amended—

- (1) by inserting immediately after “expenditures of the independent production service” the following: “, including carriage and viewing information for programs produced or acquired with funds provided pursuant to subclause (I);”;

- (2) by striking “fiscal year 1992” and inserting in lieu thereof “fiscal years 1992, 1993, 1994, and 1995”.

GRANT DISTRIBUTION CRITERIA

SEC. 11. Section 396(k)(6)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(B)) is amended by inserting “(which the Corporation shall review periodically in consultation with public radio and television licensees or permittees, or their designated representatives)” immediately after “eligibility criteria”.

COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY
REQUIREMENTS BY FUND RECIPIENTS

SEC. 12. (a) CERTIFICATION AND EMPLOYMENT REPORTS REQUIRED.—Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended by adding at the end the following new paragraph:

“(11)(A) Funds may not be distributed pursuant to this subsection for any fiscal year to the licensee or permittee of any public broadcast station if such licensee or permittee—

“(i) fails to certify to the Corporation that such licensee or permittee complies with the Commission’s regulations concerning equal employment opportunity as published under section 73.2080 of title 47, Code of Federal Regulations, or any successor regulations thereto; or

“(ii) fails to submit to the Corporation the report required by subparagraph (B) for the preceding calendar year.

“(B) A licensee or permittee of any public broadcast station with more than five full-time employees to file annually with the Corporation a statistical report, consistent with reports required by Commission regulation, identifying by race and sex the number of employees in each of the following full-time and part-time job categories:

“(i) Officials and managers.

“(ii) Professionals.

“(iii) Technicians.

“(iv) Semiskilled operatives.

“(v) Skilled craft persons.

“(vi) Clerical and office personnel.

“(vii) Unskilled operatives.

“(viii) Service workers.

“(C) In addition, such report shall state the number of job openings occurring during the course of the year. Where the job openings were filled in accordance with the regulations described in subparagraph (A)(i), the report shall so certify, and where the job openings were not filled in accordance with such regulations, the report shall contain a statement providing reasons therefor. The statistical report shall be available to the public at the central office and at every location where more than five full-time employees are regularly assigned to work.”.

(b) COMPILATION OF REPORTS BY CORPORATION.—Section 396(m)(2) of the Communications Act of 1934 (47 U.S.C. 396(m)(2)) is amended by adding at the end the following new sentence: “Such report shall include a summary of the statistical reports received by the Corporation pursuant to subsection (k)(11), and a comparison of the information contained in those reports with the information submitted by the Corporation in the previous year’s annual report.”.

AUDIT REQUIREMENT FOR PUBLIC TELECOMMUNICATIONS ENTITIES

SEC. 13. (a) **ALTERNATIVE TO AUDIT FOR CERTAIN ENTITIES.**—Section 396(l)(3)(B)(ii) of the Communications Act of 1934 (47 U.S.C. 396(l)(3)(B)(ii)) is amended—

- (1) by designating the existing text as subclause (I);
- (2) by striking “and” at the end of subclause (I), as so redesignated, and inserting in lieu thereof “or”; and
- (3) by adding at the end the following new subclause:

“(II) to submit a financial statement in lieu of the audit required by subclause (I) if the Corporation determines that the cost burden of such audit on such entity is excessive in light of the financial condition of such entity; and”.

(b) **FREQUENCY OF AUDIT.**—Section 396(l)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(l)(3)(B)) is amended—

- (1) in clause (ii) by striking “biannual” and inserting in lieu thereof “biennial”; and
- (2) in clause (iii) by striking “biannually” and inserting in lieu thereof “biennially”.

AVAILABILITY OF INFORMATION FOR PUBLIC INSPECTION

SEC. 14. (a) **CPB INFORMATION.**—Section 396(l) of the Communications Act of 1934 (47 U.S.C. 396(l)) is amended by striking paragraph (4) and inserting in lieu thereof the following:

“(4)(A) The Corporation shall maintain the information described in subparagraphs (B), (C), and (D) at its offices for public inspection and copying for at least 3 years, according to such reasonable guidelines as the Corporation may issue. This public file shall be updated regularly. This paragraph shall be effective upon its enactment and shall apply to all grants awarded after January 1, 1993.

Effective date.

“(B) Subsequent to any award of funds by the Corporation for the production or acquisition of national broadcasting programming pursuant to subsection (k)(3)(A) (ii)(II) or (iii)(II), the Corporation shall make available for public inspection the following:

“(i) Grant and solicitation guidelines for proposals for such programming.

“(ii) The reasons for selecting the proposal for which the award was made.

“(iii) Information on each program for which the award was made, including the names of the awardee and producer (and if the awardee or producer is a corporation or partnership, the principals of such corporation or partnership), the monetary amount of the award, and the title and description of the program (and of each program in a series of programs).

“(iv) A report based on the final audit findings resulting from any audit of the award by the Corporation or the Comptroller General.

“(v) Reports which the Corporation shall require to be provided by the awardee relating to national public broadcasting programming funded, produced, or acquired by the awardee with such funds. Such reports shall include, where applicable, the information described in clauses (i), (ii), and (iii), but shall exclude proprietary, confidential, or privileged information.

“(C) The Corporation shall make available for public inspection the final report required by the Corporation on an annual basis

from each recipient of funds under subsection (k)(3)(A)(iii)(III), excluding proprietary, confidential, or privileged information.

“(D) The Corporation shall make available for public inspection an annual list of national programs distributed by public broadcasting entities that receive funds under subsection (k)(3)(A)(ii)(III) or (iii)(II) and are engaged primarily in the national distribution of public television or radio programs. Such list shall include the names of the programs (or program series), producers, and providers of funding.”.

(b) INDEPENDENT PRODUCTION SERVICE INFORMATION.—Section 396(k)(3)(B)(iii) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)(iii)) is amended by adding at the end the following new subclause:

“(VI) The Corporation shall not contract to provide funds to any such independent production service, unless that service agrees to comply with public inspection requirements established by the Corporation within 3 months after the date of enactment of this subclause. Under such requirements the service shall maintain at its offices a public file, updated regularly, containing information relating to the service’s award of funds for the production of programming. The information shall be available for public inspection and copying for at least 3 years and shall be of the same kind as the information required to be maintained by the Corporation under subsection (l)(4)(B).”.

CLARIFICATION OF CONGRESSIONAL INTENT

SEC. 15. Section 103(a) of the Children’s Television Act of 1990 (47 U.S.C. 303b(a)) is amended by inserting “commercial or noncommercial” immediately before “television broadcast license”.

BROADCASTING OF INDECENT PROGRAMMING

47 USC 303 note.

SEC. 16. (a) FCC REGULATIONS.—The Federal Communications Commission shall promulgate regulations to prohibit the broadcasting of indecent programming—

(1) between 6 a.m. and 10 p.m. on any day by any public radio station or public television station that goes off the air at or before 12 midnight; and

(2) between 6 a.m. and 12 midnight on any day for any radio or television broadcasting station not described in paragraph (1).

The regulations required under this subsection shall be promulgated in accordance with section 553 of title 5, United States Code, and shall become final not later than 180 days after the date of enactment of this Act.

47 USC 303 note.

(b) REPEAL.—Section 608 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2228), is repealed.

READY-TO-LEARN TELEVISION CHANNEL

SEC. 17. (a) The Congress finds that—

(1) many of the Nation’s children are not entering school “ready to learn”;

(2) next to parents and early childhood teachers, television is probably the young child’s most influential teacher;

(3) a vital component in meeting the Nation's first education goal is the development of interactive programming aimed exclusively at the developmental and educational needs and interests of preschool children;

(4) television can assist parents and preschool and child care teachers in gaining information on how young children grow and learn; and

(5) there is a need for quality interactive instructional programming based on worthwhile information on child development designed for children, parents, and preschool and child care providers and teachers.

(b) Within 90 days following the date of the enactment of this Act, the Corporation for Public Broadcasting shall report to the Congress as to the most effective way to establish and implement a ready-to-learn public television channel. Such report shall include, among other things—

Reports.

(1) the costs of establishing and implementing a ready-to-learn channel;

(2) the special considerations of using television as a learning tool for very young children;

(3) the technology, and availability thereof, needed to establish and implement such a channel; and

(4) the best means of providing financing for the establishment and implementation of a ready-to-learn channel.

CORPORATION FOR PUBLIC BROADCASTING REPORT ON DISTANCE LEARNING

SEC. 18. (a) The Congress finds that—

(1) distance learning would provide schools in rural areas with advanced or specialized instruction not readily available;

(2) utilization of distance learning can end some school closings or consolidations;

(3) distance learning will play a vital role in accomplishing the goals of "America 2000" as established by the President;

(4) the Corporation for Public Broadcasting should promote distance learning projects where it is cost effective; and

(5) the Corporation for Public Broadcasting can promote distance learning by helping reduce the costs associated with telecommunications services.

(b) Within 180 days following the date of the enactment of this Act, the Corporation for Public Broadcasting, in consultation with other education program providers and users, shall report to the Congress as to the most effective use of their existing telecommunications facilities to establish and implement distance learning projects in rural areas. Such report should include, among other things, the costs and benefits of establishing national demonstration sites to study new distance learning tools and to evaluate the most effective use of current distance learning applications; any incentives necessary to provide access to Corporation for Public Broadcasting facilities for distance learning applications.

Reports.

OBJECTIVITY AND BALANCE POLICY, PROCEDURES, AND REPORT

SEC. 19. Pursuant to the existing responsibility of the Corporation for Public Broadcasting under section 396(g)(1)(A) of the Communications Act of 1934 (47 U.S.C. 396(g)(1)(A)) to facilitate the full development of public telecommunications in which programs of

47 USC 396 note.

high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature, the Board of Directors of the Corporation shall—

(1) review the Corporation's existing efforts to meet its responsibility under section 396(g)(1)(A);

(2) after soliciting the views of the public, establish a comprehensive policy and set of procedures to—

(A) provide reasonable opportunity for members of the public to present comments to the Board regarding the quality, diversity, creativity, excellence, innovation, objectivity, and balance of public broadcasting services, including all public broadcasting programming of a controversial nature, as well as any needs not met by those services;

(B) review, on a regular basis, national public broadcasting programming for quality, diversity, creativity, excellence, innovation, objectivity, and balance, as well as for any needs not met by such programming;

(C) on the basis of information received through such comment and review, take such steps in awarding programming grants pursuant to clauses (ii)(II), (iii)(II), and (iii)(III) of section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)) that it finds necessary to meet the Corporation's responsibility under section 396(g)(1)(A), including facilitating objectivity and balance in programming of a controversial nature; and

(D) disseminate among public broadcasting entities information about its efforts to address concerns about objectivity and balance relating to programming of a controversial nature so that such entities can utilize the Corporation's experience in addressing such concerns within their own operations; and

(3) starting in 1993, by January 31 of each year, prepare and submit to the President for transmittal to the Congress a report summarizing its efforts pursuant to paragraphs (1) and (2).

CONSUMER INFORMATION

47 USC 396 note.

SEC. 20. Prior to the expiration of the 90-day period following the date of the enactment of this Act, the Corporation for Public Broadcasting, in consultation with representatives of public broadcasting entities, shall develop guidelines to assure that program credits for public television programs that receive production funding directly from the Corporation for Public Broadcasting adequately disclose that all or a portion of the cost of producing such program was paid for by funding from the Corporation for Public Broadcasting, and that indicates in some manner that the Corporation for Public Broadcasting is partially funded from Federal tax revenues.

INDEPENDENT PRODUCTION SERVICE FUNDING

47 USC 396 note.

SEC. 21. In making available funding pursuant to authorizations under this Act, any independent production service established under section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) shall, to the maximum extent practicable and consistent

with the provisions of the Communications Act of 1934, provide such funding to eligible recipients and projects representing the widest possible geographic distribution, with the objective of providing funding to eligible recipients and projects in each State from which qualified proposals are received over the course of such authorizations.

EFFECTIVE DATE

SEC. 22. Section 5(a) shall take effect on January 31, 1996. 47 USC 396 note.
All other provisions of this Act are effective on its date of enactment.

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.R. 2977 (S. 1504):

HOUSE REPORTS: No. 102-363 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 102-221 accompanying S. 1504 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 137 (1991): Nov. 25, considered and passed House.

Vol. 138 (1992): June 2, S. 1504 considered in Senate.

June 3, H.R. 2977 considered and passed Senate, amended, in lieu of S. 1504.

Aug. 4, House concurred in Senate amendment.